

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X,  
LESTER PAUL HALPER,

Plaintiff,  
-against-

**ORDER**  
CV 05-866 (LDW)(ARL)

OYSTER BAY-EAST NORWICH CENTRAL  
SCHOOL DISTRICT, et al.,

Defendants.

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**Lindsay, Magistrate Judge:**

Before the court is the plaintiff's letter application dated May 3, 2006, seeking to prevent the defendants from designating Mr. Luber, or any other person, as a testifying expert. For the reasons set forth below, that request is denied.

At a conference held on March 1, 2006, the undersigned granted the defendants' request to have additional time to review the plaintiff's original documents. The court also extended the expert discovery deadline to April 14, 2006, to enable the defendants to designate an expert after reviewing the documents. The plaintiff appealed the undersigned's ruling to Judge Wexler. By order dated March 24, 2006, Judge Wexler affirmed the ruling. Thereafter, by letter application dated April 11, 2006, the defendants sought an additional thirty day extension of the expert discovery deadline due to the fact that they were not given access to the original documents until after Judge Wexler issued his decision. In their letter application, the defendants indicated that Mr. Luber was in the process of assessing the documents and the defendants would then determine whether to identify him as a testifying expert. That application, which was consented to by the plaintiff's counsel, was also granted.

Notwithstanding their consent to the defendants' last application, plaintiff's counsel argues that Mr. Luber cannot be identified as an expert at this time because the expert discovery

deadline “is a little more than a week away” and they have not had an opportunity to conduct expert discovery of their own. The defendants have indicated in their opposition to the instant motion that it was their intent to file Mr. Luber’s expert report on May 9, 2006. Although, the court understands the plaintiff’s concern that he has not been given an opportunity to conduct his own expert discovery, the defendants are acting in accordance with the court’s order.

Accordingly, the plaintiff's motion to prevent the defendants from naming Mr. Luber as a testifying expert is denied. The defendants are directed to serve the plaintiff with Mr. Luber's expert report no later than May 9, 2006. The plaintiff is directed to identify any rebuttal expert by May 23, 2006. Rebuttal expert reports shall be served by June 6, 2006. All expert depositions shall be conducted by June 6, 2006. The parties are directed to electronically file an amended joint pretrial order by June 16, 2006. The case will be marked ready for trial upon receipt of the amended joint pretrial order.

Dated: Central Islip, New York  
May 10, 2006

**SO ORDERED:**

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/s/

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ARLENE ROSARIO LINDSAY  
United States Magistrate Judge